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**Responses of the Federal Bureau of Investigation
Based Upon the April 21, 2005 Hearing Before the
Senate Select Committee on Intelligence
Regarding Practical Application of the USA PATRIOT Act**

Questions Posed by Vice Chairman Rockefeller

7. Can you please provide us with descriptions of specific cases in which the FBI has sought a FISA order for "business records" under Section 215 of the USA PATRIOT Act since its passage?

a. First, as a matter of background, how many Section 215 orders have been obtained? How many are in the pipeline?

Response:

(U) The following information supplements that provided in the unclassified response.

(U)

~~(S)~~ As of February 17, 2006, the FBI had obtained 186 section 215 orders and FBI applications for such orders were pending with the Department of Justice (DOJ) Office of Intelligence Policy and Review (OIPR). Of the pending applications, were for subscriber information in conjunction with Foreign Intelligence Surveillance Act (FISA) pen register/trap and trace requests and were for various other types of records from employers, information technology companies, shipping companies, and commercial databases.

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b. What kinds of records have been sought? From what kinds of organizations? In the context of what kinds of investigations?

Response:

(U) The following information supplements that provided in the unclassified response.

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(U) ~~(S)~~ Of the 186 section 215 orders referenced in response to subpart a, above, [] were for subscriber information and were obtained in conjunction with FISA pen register/trap and trace orders. The other [] were for drivers' license records, public accommodation records, apartment leasing records, credit card records, rental agency records, personnel records, shipping records, transportation records, and internet company records. Most of these [] orders were obtained in counterterrorism cases.

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c. Please describe the two or three largest bod[ies] of records that have been obtained under a Section 215 order? The records of how many US persons were involved in those matters?

Response:

(U) ~~(S)~~ The largest "body" of records obtained through the use of section 215 orders is telephone subscriber information. The total number of U.S. persons whose subscriber information has been obtained is unknown, but [] of the 186 section 215 orders obtained as of February 17, 2006, sought only telephone subscriber information for numbers recorded on a pen register/trap and trace device on a target's telephone. Thus, the section 215 orders that are generating the largest "body" of records are those that obtain the same records as can be obtained using a National Security Letter (NSL) or, in some cases, from publicly available sources.

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(U) ~~(S)~~ The only other "body" of records obtained was from a hotel. []

[]
In an effort to limit the data obtained, the FBI began by seeking only the names of these guests, and will request further data, as permitted under the order, only if it is determined that such information would further the investigation. No data will be entered into any investigative database unless it is determined that such information will advance the investigation. All information, including the information entered into the database, will be maintained in conformity with statutory, regulatory, and policy guidelines.

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d. What steps does the FBI take to protect the privacy of U.S. persons whose records are acquired pursuant to a Section 215 order?

Response:

(U) The following information supplements that provided in the unclassified response.

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~~(S)~~ Information obtained pursuant to a business record order, including information regarding U.S. persons, is subject to the same dissemination restrictions as govern all information obtained by the FBI (with the exception of FISA electronic surveillance and physical searches, for which there are separate rules), including information received pursuant to NSLs and grand jury subpoenas. This information is available to [redacted]

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[redacted] Dissemination of the information outside DOJ is governed by The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG).

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~~(S)~~ Business record orders, including those joined with pen register orders, allow the FBI to obtain certain information that relates to multiple people with the expectation that only a limited amount of the information will be immediately relevant. These business record orders create unique handling challenges because of privacy concerns. All intelligence information, whether included in a database or not, is maintained within the FBI in conformity with statutory, regulatory, and policy guidelines and is disseminated in compliance with the NSIG.

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